

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/18/2025
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HAIYAN CHEN, KENYA WATSON, S.O.,	:	
GERTRUDE CRIBBS, HANA BROOME, and	:	
MEI IENG LEE, individually, and on behalf of all	:	
similarly situated,	:	
	:	23-CV-1440 (VEC)
Plaintiffs,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
BROOKE L. ROLLINS, in her official capacity as	:	
Secretary of the U.S. Department of Agriculture	:	
(USDA), and DR. TAMEKA OWENS, in her	:	
official capacity as Acting Administrator of the	:	
USDA Food and Nutrition Service,	:	
	:	
Defendants.	:	
-----X	:	

VALERIE CAPRONI, United States District Judge:

WHEREAS on September 27, 2024, in connection with the parties' briefing of their cross-motions for summary judgment, the Court ordered the parties to follow the Undersigned's Individual Practice 4(G)(ii) and Local Rule 56.1(e) when filing their Rule 56.1 Statements, *see* Dkt. 55;

WHEREAS on December 18, 2024, Plaintiffs moved for summary judgment raising materials outside of the administrative record that Defendants allegedly ignored, and Plaintiffs filed a Rule 56.1 Statement addressing those extra-record materials, *see* Pl. Mem., Dkt. 66, at 2 n.1, Dkt. 67;

WHEREAS on March 17, 2025, Defendants cross-moved for summary judgment and opposed Plaintiffs' summary judgment motion, *see* Dkts. 84–85;

WHEREAS Defendants' brief correctly states that in the normal course, a Rule 56.1 Statement is not required in a case seeking review of an administrative action under the Administrative Procedure Act, *see* Def. Mem., Dkt. 85, at 11–12; *see also* Pl. Mem. at 2 n.1;

WHEREAS Defendants did not file a Rule 56.1 Statement but indicated that if the Court determines such submissions are required, they are prepared to file promptly a Rule 56.1 Statement, *see* Def. Mem. at 12 n.5;

WHEREAS Defendants' recent filings indicate that the parties sued in their official capacities no longer hold their positions at the U.S. Department of Agriculture, *see, e.g.*, Dkts. 84–85; and

WHEREAS pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, when a public officer who is a party in an official capacity ceases to hold office while an action is pending, “[t]he officer’s successor is automatically substituted as a party,” and “[l]ater proceedings should be in the substituted party’s name, but any misnomer not affecting the parties’ substantial rights must be disregarded,” Fed. R. Civ. P. 25(d); *see also Curran v. Lee*, 484 F.2d 1348, 1349 n.2 (2d Cir. 1973);

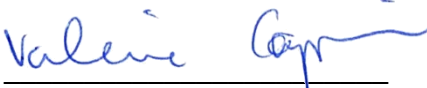
IT IS HEREBY ORDERED that by **Thursday, March 20, 2025**, Defendants must file a Rule 56.1 Statement. The Court expresses no view on whether it is proper to consider Plaintiffs’ proffered extra-record material in deciding the parties’ cross-motions for summary judgment. If the Court does ultimately decide that it will consider that extra-record material, it would be helpful to understand whether Defendants dispute any of the purported material facts raised in Plaintiffs’ Rule 56.1 Statement. To that end, Defendants are required only to respond to the assertions in Plaintiffs’ Rule 56.1 Statement and are not required to raise additional factual allegations, though they may do so if they wish. The parties are reminded to comply with

Individual Practice 4(G)(ii) in filing their Rule 56.1 Statements; at the close of briefing, there should be a single, consolidated 56.1 Statement.

IT IS FURTHER ORDERED that within five days of the confirmation of the next Administrator of the USDA Food and Nutrition Service, Defendants must file a letter on the docket indicating that official's name so that Plaintiffs and the Court can include the correct parties in future captions.

SO ORDERED.

Date: March 18, 2025
New York, New York



VALERIE CAPRONI
United States District Judge